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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,194	09/29/2001	Steven Jerome Caruso		7270

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STEVEN JEROME CARUSO  
862 PINE HILL DRIVE  
ANTIOCH, IL 60002

EXAMINER

CLARKE, SARA SACHIE

ART UNIT PAPER NUMBER

3749

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/870,194	CARUSO, STEVEN JEROME	
	Examiner	Art Unit	
	Sara Clarke	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-24, 29-33, 36 and 38 is/are rejected.
- 7) ☒ Claim(s) 25-28, 34, 35, 37, 39 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Priority***

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application upon which priority is claimed was filed more than one year before the filing date of the present application.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the positional electric switch (claim 24), the catch means (claims 25 and 39), and the push button (claim 27) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: On page 1, line 7 from the bottom, "summary" is spelled wrong. Appropriate correction is required.

### ***Claim Objections***

Claims 21-35 are objected to because of the following informalities: In claim 21, line 6, "tracking device" should be "tracking means" for consistency with the rest of the claim. In claim 38, line 7, "planer" should be "planar." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 24, there is no antecedent basis for "said device." It is unclear what device is being referenced.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-23, 29, 30, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Walton (US 5793021).

Walton discloses the invention as claimed including generally vertical tracking means 46,48 and a pivot 26. The carrier of Walton is associated with food preparation device range R.

Claims 21-23, 29-33, 36, and 38 rejected under 35 U.S.C. 102(b) as being anticipated by Strachan (US 2222960).

Strachan discloses the invention as claimed including generally vertical tracking means 56 and a pivot 54. The carrier of Strachan is associated with food preparation device burner box 27. Burners can comprise resistive elements. See col. 2, line 28. A sleeve is shown in Figs. 3. A third wall of the sleeve is shown in Figs. 1 and 2 as the front of the unit.

#### ***Allowable Subject Matter***

Claims 25-28, 34, 35, 37, 39, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grace (US 4501260) discloses a vertically movable ventilation system. Earle (US 3378324) discloses a kitchen having stowable units. Lindemann et al. (US 1972628) discloses a range having a movable cover.

***Contact Information***

Any inquiry concerning this or earlier communications from the examiner should be directed to Sara Clarke whose phone number is 571-272-4873. The examiner normally can be reached Mon-Fri, 8:30-1:00.

If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at 571-272-4877. The fax number for the organization where this application is assigned is 703-872-9306.

Status information for an application is available from the Patent Application Information Retrieval (PAIR) system. Status information for published applications is available from Private or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about PAIR, see <http://pair-direct.uspto.gov>. For questions on access to Private PAIR, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sara Clarke   
Primary Examiner  
Art Unit 3749

February 6, 2005